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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/479,549	01/07/2000	E. MICHAEL ACKLEY, JR.	2280.2470	3198

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FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/479,549

Applicant(s)

ACKLEY, JR. ET AL.

Examiner

Steven L. Weinstein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,9,10,12,59,61 and 63-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,9,10,12,59,61, and 63-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,4,9,10,12,59,61, and 63-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redford et al ('884) in view of Ream et al ('073), or vice versa, further in view of Yamamoto et al ('252), Krubert ('273), Van Os ('536), Karlyn et al ('340), Averill et al ('048), Noguchi ('591), Ackley ('589), and Ackley ('689), for the reasons fully detailed in the Office actions mailed 1/20/04, 11/17/04, and 8/4/05, further in view of Tusky (De3836142).

The independent claims now recite that the first and second images are printed with an inked offset roll. As evidenced by Redford et al ,and the art taken as a whole, to employ inked offset rolls to print onto surfaces, including non-planar surfaces is notoriously conventional in the art. The claims recite that both printing steps employ offset rolls. As discussed previously, the art taken as a whole teaches multiple offset printings in registration, and with pressure differential, and also teaches multiple offset rollers, and to modify Redford et al and substitute one conventional printing expedient for the printing expedient of Redford et al or modify Ream et al, who does teach multiple inked offset rolls for printing as well as pressure differentials, and employ this conventional expedient on a conventional non-planar sugar shell confectionary piece, would have been obvious in view of the art taken as a whole for the reasons of record.

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Tusky is relied on as further evidence of multiple registered offset printers and their use in printing on a shell containing food with the use of pressure differential.

Claims 1,2,4,9,10,12,59,61, and 63-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tusky in view of Redford et al ('884) in view of Ream et al ('073), Yamamoto et al ('252), Krubert ('273), Van Os ('536), Karlyn et al ('340), Averill et al ('048), Noguchi ('591), Ackley ('589), and Ackley ('689). In regard to the independent claims, Tusky discloses a method of forming multicolor images in substantial registration on shell containing, non planar food (i.e. eggs) wherein the eggs are situated in transporting recesses (see the recess in # 16) in a transport surface and the eggs are printed in a first image in a first color on a non-planar surface and are transported in the transporting recess to a second printing station and maintained in registering relationship by applying a pressure differential to a portion of the printed piece (i.e. the clamping pressure) wherein they are printed in a second image in a second color by contacting the food in both printing steps with offset printers. The claims differ from Tusky in the particular food and the particular type of offset printer. As evidenced by the art taken as a whole, it is well established to print on various foods and capsules including a non-planar sugar shell confectionary and to modify Tusky and substitute one conventional material for another conventional material would have been obvious. Similarly, it would have been obvious in view of the art taken as a whole to modify Tusky and employ a conventional offset roller printer for the offset printer of Tusky. The dependent claims, who are applied as previously, are rejected for the reasons of record.

All of applicants remarks filed 2/3/06 have been fully and carefully considered but are not found to be convincing. The remarks are, for the most part, restatements of previously made urgings. It is urged that the flat sheets of Ream do not present any particular challenge to maintaining registration. If this were true, why does Ream disclose the use of vacuum and that the vacuum helps hold the gum sheets on the conveyor bed? Also, as discussed previously, the art taken as a whole teaches the use of vacuum to maintain registration through multiple printings was a well established expedient in the art as evidenced by a number of references. Thus, applicants assertion of non-obviousness is an opinion that is not supported by the factual evidence set forth in the rejection. It is urged that the references do not suggest printing composite offset printed images on a non-planar curved surface shell confectionary piece. This urging is also not convincing. There is seen to be nothing magic in the fact the articles are non-planar or that they have shells. Printing is printing. Also, not only have non-planar surfaces been printed with offset rollers, (e.g Redford), articles with non-planar surfaces have been held in place by differential pressure (such as vacuum) and it was also known to provide registration and multicolor printing on non-planar surfaces held in place by differential pressure as evidenced by Tusky. The key to success would not be one conventional differential pressure expedient or another, but the amount of differential pressure applied whether it is physical clamping or vacuum. Applicant urges again that Redford teaches away from the invention. He does not. He teaches a high vacuum to prevent the articles from moving and being out of registration with the image making devices. Since the art taken as a whole also teaches using vacuum for multiple

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printing, offset printing, the art taken as a whole fairly teaches one of ordinary skill in the art to employ the appropriate amount of pressure differential to prevent the movement of the article to be multi-printed, whether the potential cause of movement was the speed of the transport system, the force of gravity or the force caused by contact with a printing element. It is urged that only Ream discloses printing two component images on an edible. Whether the object is edible or not would appear to be irrelevant to the printing process. In any case, Tusky discloses printing on an edible with two component images wherein the surfaces of the product to be printed are non-planar. As noted above, there appears to be nothing magic in the fact the product to be printed is a food. It is urged that movement in Reams is not an issue, but, as noted above, Reams clearly teaches the vacuum keeps the product from moving (as do the other references which have been applied and teach fixing the position, for registration purposes, of edible or inedible materials by applying vacuum).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L. Weinstein whose telephone number is 571-272-1410. The examiner can normally be reached on Monday-Friday from 7:00AM to 2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Steve Weinstein*  
STEVE WEINSTEIN 1761  
PRIMARY EXAMINER  
5/3/06